



## Lamoine Board of Selectmen

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### Minutes of November 21, 2013

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen Bernie Johnson, Nathan Mason, Gary McFarland, Cynthia Donaldson, S. Josephine Cooper; Administrative Assistant Stu Marckoon, Budget Committee member Kathleen DeFusco, Code Enforcement Officer Michael Jordan, RSU 24 Representative Brett Jones, Steve Salisbury, Town Attorney Daniel Pileggi, Parks Commission members Paula Gardiner, Matthew Montgomery, Christa Brey, Doug Jones; Snow Plow contractor Richard McMullen, Planning Board chair John Holt, Attorney Ed Bearor, Hancock Selectman Gary Hunt, Gravel permit holder Paul MacQuinn and resident Anne Curtis

**Agenda Review** – No changes to the printed agenda and addendum were suggested.

**Minutes of November 7, 2013** – Cynthia said she had one minor grammar change for the minutes. Jo moved to approve as corrected. Gary 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Expenditure Warrant 9** – Selectmen signed the warrant in the amount of \$20,280.24.

**Cash & Budget Report** – Cynthia asked about the figure in the Education Fund projection. Stu explained that it is quite high because only the actual expenditures through November are booked. Cynthia asked about the Education Capital Fund. Stu reported that dates back to when the town build a portable classroom and did not spend as much on it as budgeted.

**Foreclosure Notices** – Stu reported he had collected several 2011/12 tax liens in recent days and was optimistic that the rest would be paid by the next meeting.

**Parks Commission – Joint Meeting** – Stu administered the oaths of office to the four commission members who were present. Jo noted that some exciting things have taken place with the parks in the past few years.

**Officers** – Matt Montgomery nominated Christa Brey as the chair. Doug Jones. 2<sup>nd</sup>. **Vote in favor was 4-0.** Christa nominated Paula Gardner as the Secretary. Doug 2<sup>nd</sup>. **Vote in favor was 4-0.**

**Budget** – The Selectmen and Parks Commission reviewed the draft budget e-mailed by former chair Kerry Galeaz. Christa noted that it is pretty much the same as previous years. She said the only new thing appeared to be a wooden sign at the entry to Bloomfield Park. After some discussion, the committee said this would be fine to place before the Budget Committee.

Jo thanked the committee members for their service. Nathan inquired about having more of a recreation program presence in Lamoine. A discussion followed about the town's partnership with the YMCA.

Boat Ramp – Lamoine Beach – Stu reported that at a recent meeting with members of the Bureau of Parks and Lands, the issue of the boat ramp at Lamoine Beach came up. He said if the town wrote to the Bureau, they would remove the ramp as it has fallen into a state of disrepair. Christa said there was no feasible way to repair the ramp, and if it can't be fixed, it should come out. Cynthia moved to sign the letter to the state. Nathan 2<sup>nd</sup>. **Vote in favor was 5-0, Selectmen signed the letter.**

**Gravel Permits** – Steve Salsbury reported his clients (MacQuinn, Goodwin and Jordan) all received notices of violation because their permits had expired at the end of October. He said it would not be possible to bring the pits into compliance in the 30-day time frame and requested a stay until January 16<sup>th</sup> or 23<sup>rd</sup>. He said the Planning Board has done the site walks, indicating the applications are complete. Gary said the pits were walked last Saturday. Mr. Salsbury said the walks concluded on Wednesday.

Bernie asked about which date was requested. Mr. Salsbury said he guessed it would be January 23, as that's the date the Selectmen meet. Bernie noted that January 9<sup>th</sup> is the special town meeting night and said the date could be extended until the Planning Board approved or denied an application. He asked Planning Board chair John Holt if that made sense. Mr. Holt said that in the next meeting or two the permits might be approved, but a complication could arise if a permit were denied. He said that would likely put the matter before the Appeals Board and possibly Superior Court. He asked what happens if a pit operator is operating without a permit.

Jo said the question for her is for how long to grant an extension. Cynthia said she agreed that it should be a date certain. She asked if the Board has the authority to do this. Mr. Holt said he didn't believe the Planning Board had extension authority. Jo said it's an enforcement issue, and asked the town attorney. Daniel Pileggi said he did not find anything allowing for a permit extension, but the Board could choose not to institute enforcement. Jo asked Mr. Holt about the time frame. Mr. Holt said they've set up double meetings on December 3, 2013 and December 10, 2013. He said the permits might be granted if there is little comment received. He said customarily the Planning Board moves ahead with a review after the hearings close. He said that conceivably all the permits could be approved. Jo asked if January 23, 2014 is not unreasonable one way or another. She said if a permit is denied, the pit owner could face enforcement down the road. She said if the Planning Board doesn't act on the permit applications in December, they certainly would by January. She said she was not suggesting what the outcomes might be.

Bernie asked if a date certain should be set. Gary moved to suspend enforcement until January 23, 2014. Nathan 2<sup>nd</sup>. **Vote in favor was 5-0.**

Mr. Holt said he assumed the pits would be operated under the previous permit conditions. Jo said she presumed so. Mr. Holt said it doesn't matter much to the

planning board. Cynthia said she would imagine the pits would continue to operate under the ordinance for which they received approval. She said the pit operators appeared to be trying to operate under the new ordinance. Mr. Holt said all the applications are under the new ordinance.

**Gravel Ordinance Amendments** – Jo asked what the proposed amendments were. Cynthia said the third amendment was in the packet. Stu said the first two were in the draft town meeting warrant.

Mr. Holt said the Planning Board identified three areas they thought would improve the ordinance. He said one is on the appeals process, and the second would be to amend the buffering restrictions. He said the most recent amendment was about the restoration fund. He said the Planning Board was recommending that the Selectmen consider placing the amendments on a town meeting warrant. Bernie asked if it was for the upcoming special town meeting or the annual town meeting in March. Mr. Holt said that would be up to the Selectmen. A brief discussion followed on whether a public hearing would be necessary. Stu explained that if this were to be a referendum question, a public hearing is required, but if an open town meeting dealt with the amendments; that acts as the public hearing. Bernie asked Stu if this would be better at the annual town meeting. Stu said that's up to the Board of Selectmen.

Jo said the smaller pit operators are concerned by the new ordinance. She said she did not see any advantage by waiting. A brief discussion followed on the timing.

Gary said he would like to look at the amendments further. He asked about the restoration fund and where the money goes. He said he would like clarification on that either tonight or at another time. He asked if the money belonged to the town or the pit owners. Mr. Holt said the pit operators would pay \$0.05/yard to the town which would set up a restoration account. He said it's not an escrow account, and the money could only be used for restoration. He said the Code Enforcement Officer could inspect any restoration work and request that the pit operators be reimbursed. He said the town doesn't keep the money.

Brett Jones said a few years ago citizens asked for an accounting of the materials removed from the town owned pit. He asked if there was any way to deal with disputes. He said the expense to reclaim could outstrip the funds available. Mr. Holt said this was a way to accumulate funds, and if the amount is inadequate, the owner is liable for restoration costs. He said the report on the amount of material removed is based on honest reporting.

Attorney Ed Bearor said what he had provided to the Planning Board and Selectmen were several additions and strikeouts to the ordinance. He said they were not numerous and could summarize them. He said while he would like to see a discussion, he would be happy to come back next meeting. Jo said she would rather have Mr. Bearor's proposal in front of her. Gary said the Planning Board decided not to review them but he felt the Selectmen should go over line by line. He said the town asked the pit owners to

do this and the Selectmen owe them the courtesy to review it. Jo said she would like to look at it.

Cynthia asked when the Selectmen would sign the warrant. Stu said December 12<sup>th</sup>. He said he suspects that the proposal from Mr. Bearor might not be acceptable, but that the Selectmen might wish the town attorney to negotiate with Mr. Bearor. Bernie said the Selectmen have the three Planning Board Amendments. Cynthia said the Planning Board proposal is not in response to Mr. Bearor's suggestions. Jo said it would be helpful to have the town attorney look over the proposals and distill things for the Selectmen. Mr. Bearor asked if they could be on the meeting agenda for December 12, 2013. He said he would talk to the town attorney and condense things.

Mr. Pileggi said if he is going to have any type of discussion, he would need direction from the Board of Selectmen. Cynthia said she wanted to be clear that the Selectmen are not sending Mr. Pileggi to negotiate at this time. Stu said the discussion should probably take place in executive session.

**RSU 24 Withdrawal** – Brett Jones reported the Local School Advisory Committee met. He said there was a memorandum for the Selectmen this evening. He said he has read it, but was not intimately familiar with it. He said the job is beyond the scope of volunteers, and suggested that a consultant be hired, preferably one with a superintendent's certificate.

Mr. Jones said they've spoken with Otis school superintendent Judith Lucarelli, and she is interested in the work. He said this would likely be a shared process with the Town of Hancock. He said time is short and there are a lot of things to do, and briefly outlined the task list. He said it would be a disservice to not have a superintendent do things, and the new school committee could decide on hiring an interim superintendent. He said Principal Dawn McPhail supported the idea of having a transition consultant.

Gary asked what the cost might be. Mr. Jones said the Lamoine portion would be about \$8,500. He said the Town of Hancock has voted to secure Dr. Lucarelli's services.

Jo asked where the money would come from. She said a special town meeting would need to authorize the funds. Mr. Jones said he would have to see how the withdrawal question was presented. Stu went to print off the warrant question from June 2012 and discussion continued about funding. He read the question authorizing the withdrawal process to start. A discussion about timing followed, and Mr. Jones noted that Dr. Lucarelli would not be available to start until December 16, 2013.

Stu asked who would hire the consultant. Mr. Jones said it would be the Board of Selectmen. Hancock Selectmen Gary Hunt said that was the same conclusion they came to in Hancock. Stu asked what happens if the Selectmen hire someone that proves to be unacceptable to the soon to be elected school board. A brief discussion followed.

Stu asked how the hiring process would work. Mr. Hunt said Hancock is not doing interviews. He said the idea of the consultant is to try to provide a template for the new school committee. Jo said she would respect the recommendation of the Local School Advisory Committee. She said the Selectmen and School Advisory Committee need to be in communication. Cynthia said the job is to prepare the school board to run. Stu asked who the consultant would work with. It was agreed it would be the Local School Advisory Committee. Mr. Hunt said that was the plan in Hancock. Jo said the scope of the work is pretty clear. A brief discussion followed on sharing the consultant

Mr. Hunt said Hancock intends to increase the size of its school committee to five, and approve a stipend to the school committee, electing an additional two members in May.

Stu asked how this will work. Jo asked if the funding would start on January 9, 2014. A brief discussion followed. Bernie said it sounds like the school advisory committee has identified the person who would take on the role. A lengthy discussion followed about where the funding could come from. The board discussed using administration funds until the special town meeting in January.

Jo moved to request that the Local School Advisory Committee recommend a transition consultant by the December 12, 2013 meeting and to authorize spending of up to \$3,000 from the Administration fund for the consultant's work between that time, and the special town meeting on January 9, 2014 be asked to reimburse the administration account from the Education Fund. Nathan 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Draft Town Meeting Warrant Review** – Selectmen reviewed a draft of the warrant for January 7, 2014 and January 9, 2014. During the discussion, the Selectmen expressed a preference for having the meeting at the school if possible, adding a compensation article to the warrant, how long the school budgeting article would cover and what the cost would be, the article to accept and distribute the money received from Hancock County Government for Veterans' checks, and the possible gravel ordinance amendment articles. Selectmen indicated that Stu could moderate the open meeting. He said he could moderate most of the voting on 1/7/14, but had to leave before the votes would be counted, but could appoint Jennifer Kovacs to be the Deputy Moderator.

**On Line Policy** – Jo moved to approve the final draft of the new on-line policy. Cynthia 2<sup>nd</sup>. **Vote in favor was 5-0. Selectmen signed the policy**

**Holiday Hours** – Stu reported that the town office generally closes at noon on Christmas Eve and 2PM on New Years' Eve. He also noted that Lamoine is one of a very few town offices in the state open on the day after Thanksgiving. He said he has to leave the office at 3pm and Jennifer is taking that day off, so it would be a slightly early closing. There was no objection.

**Ballot Clerks Letter** – The Selectmen, town clerk, and administrative assistant all received letters from the three ballot clerks who worked on November 5, 2013 expressing concern about the noise level generated by poll watchers and a petition

signature gatherer. Stu reviewed a proposal that he and Jennifer drafted in regard to both groups. Selectmen had no objection to the proposal.

**Executive Session** – Jo moved to go into executive session pursuant to 1MRSA §405(6)(e) to consult with the town attorney on a legal matter. Bernie 2<sup>nd</sup>. **Vote in favor was 5-0 at 8:45 PM. Out at 9:25 AM.**

Following the executive session, the Board instructed Stu to request the town attorney inform the plaintiff's attorney in the Gravel Ordinance suit that the town meeting on January 9, 2014 will not be dealing with any ordinance changes.

There being no further business, the meeting adjourned at 9:30 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen